



STATE OF NEW JERSEY

In the Matter of B.J.E., Police Officer
(S9999A), Pennsauken Township

CSC Docket No. 2021-162

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

Medical Review Panel Appeal

ISSUED: MAY 24, 2021 (BS)

B.J.E. appeals his rejection as a Police Officer candidate by Pennsauken Township and its request to remove his name from the eligible list for Police Officer (S9999A) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Review Panel (Panel) on January 15, 2021, which rendered its Report and Recommendation on January 15, 2021. Exceptions were filed by the appellant.

The report by the Panel discusses all submitted evaluations. It notes that Dr. Jennifer Kelly, evaluator on behalf of the appointing authority, conducted a psychological evaluation of the appellant and characterized the appellant as presenting with evidence of substantial deficits in the required competencies and counterproductive behavior with the safe and effective performance of the essential functions of a Police Officer. Potential problematic documented behavior areas included becoming easily discouraged, having difficulty coping with stress, having difficulty with emotional control/restraint, having difficulties carrying out tasks under non-stressful conditions, being made anxious by change and uncertainty, feeling inadequate, exhibiting difficulties reading other people, exhibiting difficulties cooperating with peers/supervisors, poor impulse control, integrity issues, and easily giving up when presented with challenges. Moreover, Dr. Kelly indicated that, along with the test results, the appellant's exhibited behavior during the interview process and his behavioral record suggested that the appellant was at

high risk in the areas of emotional regulation/stress tolerance, impulse control, decision making, conscientiousness, and social competence while being at a moderate risk for job performance duties in the area of teamwork, substance abuse proclivity, and integrity. Dr. Kelly did not recommend the appellant for appointment to the subject position.

The Panel's report also indicates that Dr. David Goldstein, evaluator on behalf of the appellant, carried out a psychological evaluation. Dr. Goldstein found that the appellant presented himself as very professional, straightforward, and honest. On psychological testing, Dr. Goldstein stated that the appellant had no indications of psychopathology or any sign of mental illness that would interfere with his ability to function as a law enforcement officer. Moreover, Dr. Goldstein conducted a collateral interview of an individual who has known the appellant for several years through their employer and who cited examples of the appellant's "integrity, conscientiousness, decision making, resilience to stress, and social competence." Therefore, based on his assessment of the appellant, Dr. Goldstein concluded that the appellant was suitable for employment as a Police Officer.

The evaluators on behalf of the appellant and the appointing authority arrived at differing conclusions and recommendations. However, the Panel determined that the record supported Dr. Kelly's findings that the appellant was at high risk in the areas of emotional regulation/stress tolerance, impulse control, decision making, conscientiousness, and social competence. During the Panel meeting, the Panel questioned the appellant regarding his behavioral record, which included time management issues at work, a Temporary Restraining Order (TRO), his marijuana use, and other issues in his record, and found that the appellant demonstrated a lack of responsibility for his actions, among the other areas noted by Dr. Kelly. For instance, regarding the appellant's explanation that his marijuana use was due to his relationship with an ex-girlfriend, the Panel indicated that the appellant "blames others for his misgivings and brings into question his ability to make sound and mature decisions, especially under pressure, whether pressure to fit in or pressure to be liked." The Panel also noted that the appellant presented "as angry, irritable and overinclusive of unnecessary details while providing responses." The Panel concluded that the test results and procedures and the behavioral record, when viewed in light of the Job Specification for Police Officer, indicated that the appellant is mentally unfit to perform effectively the duties of the position sought, and therefore, the action of the appointing authority should be upheld. Therefore, the Panel recommended that the appellant be removed from the subject eligible list.

In his exceptions, the appellant asserts that the Panel's findings are "inaccurate," and that his "statements were either misinterpreted or not considered." Regarding the TRO, the appellant maintains that he did take responsibility for his actions, which he explained to the Panel. Furthermore, when

this issue was heard in court, the appellant contends that the Final Restraining Order (FRO) was dismissed by the judge. With regard to his employment record, the appellant argues that his leave usage and time management issues at work never rose to the level of a formal reprimand or disciplinary action and “merely stood as constructive criticism.” He notes that there is a policy for supervisors to meet with employees who fall below a certain sick leave time balance. The appellant also explains a task involving sending receipts to his supervisor for delivery of faxes, which he disagrees with the Panel’s finding in that regard. With respect to his marijuana use, the appellant claims that he “experimented out of curiosity, having never had the opportunity to try before this friend circle offered it to me” and not due to his girlfriend or peer pressure, as noted by the Panel. The appellant disagrees with the Panel’s assessment that he presented as “both angry and irritable,” which he found “highly subjective,” and he contends that he was in a “distinctly good mood” on the day of the Panel meeting. He maintains that he is not predisposed toward a state of anger and relies on Dr. Goldstein’s assessment of him, which includes the collateral interview of an individual who has never seen him “hostile, mad, or dysregulated.”

CONCLUSION

The Job Specification for the title of Police Officer is the official job description for such municipal positions within the Civil Service system. The specification lists examples of work and the knowledge, skills and abilities necessary to perform the job. Examples include the ability to find practical ways of dealing with a problem, the ability to effectively use services and equipment, the ability to follow rules, the ability to put up with and handle abuse from a person or group, the ability to take the lead or take charge, knowledge of traffic laws and ordinances, and a willingness to take proper action in preventing potential accidents from occurring.

Police Officers are responsible for their lives, the lives of other officers and the public. In addition, they are entrusted with lethal weapons and are in daily contact with the public. They use and maintain expensive equipment and vehicle(s) and must be able to drive safely as they often transport suspects, witnesses and other officers. A Police Officer performs searches of suspects and crime scenes and is responsible for recording all details associated with such searches. A Police Officer must be capable of responding effectively to a suicidal or homicidal situation or an abusive crowd. The job also involves the performance of routine tasks such as logging calls, recording information, labeling evidence, maintaining surveillance, patrolling assigned areas, performing inventories, maintaining uniforms and cleaning weapons.

The Civil Service Commission (Commission) has reviewed the Job Specification for this title and the duties and abilities encompassed therein and finds that the

psychological traits which were identified and supported by test procedures and the behavioral record relate adversely to the appellant's ability to effectively perform the duties of the title. The Commission is not persuaded by the exceptions filed by the appellant. Rather, his arguments support the findings against him.

Initially, it is noted that the Panel conducts an independent review of the raw data presented by the parties as well as the recommendations and conclusions drawn by the various evaluators prior to rendering its own conclusions and recommendations which are based firmly on the totality of the record presented to it and its experience reviewing thousands of applicants. While the appellant maintains that he was neither "angry" nor "irritable" at the Panel meeting, he nevertheless continues to shift blame with regard to incidents in his history where issues have arisen. Regarding the TRO, the appellant stated to the Panel that his ex-girlfriend could have done things differently instead of filing a TRO. However, the record indicates that she told him to stop texting her, but he continued to do so even after the day of the incident. Thus, filing a TRO, notwithstanding that the FRO was dismissed, does not appear to have been unreasonable under the circumstances. Moreover, the appellant disagrees with the Panel's finding regarding work incidents, including the task of sending receipts. However, of note, he maintains that there were no formal reprimands with regard to his leave usage and time management issues. While that may be true, the appellant's description of such issues as a policy for supervisors to meet with employees who fall below a certain sick leave time balance or constructive criticisms (as Dr. Kelly also described) demonstrates once more his attempt to deflect responsibility or blame for having a low leave balance or time management issues. As for the marijuana use, the appellant claims he experimented out of "curiosity," and not due to his girlfriend or peer pressure. However, in his exceptions, he emphasizes that he "experimented out of curiosity, having never had the opportunity to try before this friend circle offered it to me," which again puts the fault on the "friend circle." As such, the Commission finds the Panel's assessment of the appellant is in line with the preponderance of the evidence in the record and is amply supported by the test results.

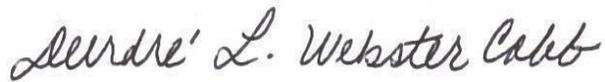
Accordingly, having considered the record, including the Job Specification for Police Officer and the duties and abilities encompassed therein, and the Panel's Report and Recommendation issued thereon and the exceptions filed by the appellant, and having made an independent evaluation of the same, the Commission accepts and adopts the findings and conclusions as contained in the Panel's Report and Recommendation. Therefore, the appellant's appeal is denied.

ORDER

The Commission finds that the appointing authority has met its burden of proof that B.J.E. is psychologically unfit to perform effectively the duties of a Police Officer and, therefore, the Commission orders that his name be removed from the subject eligible list.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 19TH DAY OF MAY, 2021



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